

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

KAZIMIERZ Z. KOTLOW, VC 2014-LE-016 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit construction of addition 2.4 ft. from side lot line. Located at 4114 Duvawn St., Alexandria, 22310, on approx. 17,316 sq. ft. of land zoned R-3. Lee District. Tax Map 82-4 ((17)) (C) 13. Mr. Byers moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 4, 2015; and

WHEREAS, the Board has made the following findings of fact:

1. The owner of the property is the applicant.
2. The present zoning is R-3.
3. The lot area is 17,316 square feet.
4. The property was acquired in good faith.
5. It is an older property; it says it was built in 1957.
6. It does have exceptional topographical conditions. It has converging lot lines and actual placement of the home.
7. There is an extraordinary situation or condition of the use or development of the property. The Park Authority is immediately adjacent to this lot. It is actually the positioning of the house.
8. The strict application of this Ordinance would produce undue hardship.
9. The strict application of the Zoning Ordinance would effectively prohibit or at least unreasonably restrict the use of the property. Given the location of the house, there is a clearly demonstrable hardship. It would not be detrimental to adjacent properties. The character of the zoning district would not change. The variance would be in harmony with the intended spirit and purpose of the Ordinance. It would not be contrary to public interest.
10. The Board has seen a lot of these from the standpoint of enclosing carports into garages and it serves to enhance properties.
11. As the applicant noted, the setback is 2.4 feet, but there have been other garages that have been built in this neighborhood, so the Board did not believe it would be out of character with what has occurred in the neighborhood.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved for the location of an addition (garage), as shown on the plat titled, "Plat, Showing the Improvements on, Lot 13, Block C, Section 3, Ridge View," dated July 29, 2014, prepared by George M. O'Quinn, Land Surveyor, Dominion Surveyors Inc., as submitted with this application and is not transferable to other land.

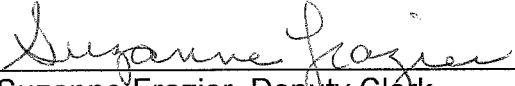
2. All applicable building permits and final inspections shall be obtained for the proposed addition (garage).
3. During all construction activity of the addition (garage), tree protection fencing shall be used to restrict activity to a minimum of 8.0 feet from nearby tree's trunks. Tree protection fence should consist of 4.0 foot high, 14-gauge welded wire attached to 6.0 foot steel posts driving 18 inches into the ground adjacent to the proposed construction.
4. The addition (garage) shall be similar in appearance and materials to the existing dwelling.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

Pursuant to Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the variance. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Beard seconded the motion, which carried by a vote of 4-0. Mr. Hart abstained from voting. Ms. Theodore was not present for the vote. Mr. Smith was absent from the meeting.

A Copy Teste:


Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals